

none

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA

UNITED STATES OF AMERICA,

07 NOV 5 AM 10:15
Magistrate Case No.

'07 MJ 2591

Plaintiff,

v.

COMPLAINT FOR VIOLATION OF:

DEPUTY

Title 8 U.S.C., Sec. 1324 (a)(1)(A)(iii)

Harboring and Concealing (Felony)

Charmaine ESPARZA,
A.K.A. Charmaine DELGADO-Esparza

Defendant(s)

The undersigned complainant, being duly sworn, states:

On or about **November 2, 2007** within the Southern District of California, defendant **Charmaine ESPARZA, A.K.A. Charmaine DELGADO-Esparza**, knowing and in reckless disregard of the fact that certain aliens, namely, **Mirella DURAN-Morales, Betsy HERNANDEZ-De Haro, Jiliberto HERNANDEZ-Vera, and L.H.D. (Juvenile)**, had come to, entered and remained in the United States in violation of law, did conceal, harbor and shield from detection said aliens, and attempt to conceal, harbor and shield from detection said aliens, in violation of Title 8, United States Code, Section 1324(a)(1)(A)(iii).

And the complainant further states that this complaint is based on the attached statement of facts, which is incorporated herein by reference.


SIGNATURE OF COMPLAINANT

James Trombley
Senior Patrol Agent

SWORN TO BEFORE ME AND SUBSCRIBED IN MY PRESENCE, THIS 5th DAY OF NOVEMBER, 2007


Cathy A. Bencivengo
UNITED STATES MAGISTRATE JUDGE

CONTINUATION OF COMPLAINT:

Charmaigne ESPARZA,

A.K.A. Charmaigne DELGADO-Esparza

PROBABLE CAUSE STATEMENT

I declare under the penalty of perjury that the following statement is true and correct:

Furthermore, the complainant states that **Mirella DURAN-Morales, Betsy HERNANDEZ-De Haro, Jiliberto HERNANDEZ-Vera, and L.H.D. (Juvenile)** are citizens of a country other than the United States; that said aliens have admitted that they are deportable; that their testimony is material, that it is impracticable to secure their attendance at the trial by subpoena; and they are material witnesses in relation to this criminal charge and should be held or admitted to bail pursuant to Title 18, United States Code, Section 3144G.

On November 2, 2007, Border Patrol Agents J. Vera and T. Lachenauer were conducting Border Patrol duties in the El Centro, California area of operations. The agents were conducting surveillance of the Motel 6 in their area due to its frequent use by alien smugglers and its proximity to interstate 8. At approximately 2:15 p.m., Agent Lachenauer observed a Hispanic female, later identified as the defendant **Charmaigne ESPARZA, A.K.A. Charmaigne DELGADO-Esparza**, repeatedly entering and exiting room 230. The defendant would exit the room and look around; she would then talk on a black cellular phone. She would open the door by cracking it enough so that she could fit through and quickly enter and exit. The defendant repeated this unusual behavior on numerous times. In Agent Lachenauer's experience, alien smugglers will often try to open the door as little as possible to avoid exposing the interior of the room to law enforcement officers and the public.

At approximately 3:15 p.m., the agents decided to approach room 230 and knocked on the door. As the defendant opened the door, Agent Lachenauer observed four subjects lying on the bed, 3 females and 1 male. The subjects were dirty and their clothing was disheveled. Agent Lachenauer also observed food wrappers and a lack of luggage that the average public would have while traveling. Agent Lachenauer identified himself as a U.S. Border Patrol Agent and questioned the defendant as to her citizenship. The defendant stated that she was a citizen of the United States. Agent Lachenauer asked the defendant about the occupants on the bed and she stated that she didn't know them and that she had been asleep.

From outside the room, Agent Lachenauer identified himself to a female subject lying on the bed and asked her to state her citizenship. The female subject, later identified as material witness Mirella DURAN-Morales, stated that she was a citizen and national of Mexico illegally present in the United States. Agent Lachenauer then asked the defendant for permission to enter the room and the defendant gave her consent. Agent Lachenauer entered the room and placed the female subject under arrest. Agent Lachenauer then detained the defendant pending further investigation. The agent then identified himself to each of the other three individuals as a U.S. Border Patrol Agent and determined through an immigration interview that they were also citizens and nationals of Mexico illegally present in the United States. At this time, the defendant and the four illegal aliens were arrested and transported to the El Centro Border Patrol Station for further processing.

CONTINUATION OF COMPLAINT:

**Charmaine ESPARZA,
A.K.A. Charmaine DELGADO-Esparza**

At the El Centro Station routine record checks revealed that the defendant had a significant criminal history, to include previous alien smuggling arrests and a "known smuggler" alert from the San Diego Sector Boulevard Station. The record checks showed that the defendant had been arrested by San Diego agents and that she was a "person of interest". The San Diego Sector Boulevard station was contacted and on November 2, 2007, Supervisory Border Patrol Agent C. Allen and Senior Patrol Agent W. Western from the Boulevard Border Patrol Station, responded to the El Centro Station for a transfer of custody of the defendant and the four illegal aliens.

At the Boulevard Border Patrol Station, the defendant's record checks revealed the previous apprehensions for alien smuggling. Including today's event, the defendant has been arrested four times within the last thirty days. At the time of her arrest on today's event, the illegal aliens arrested were four of the same six illegal aliens the defendant was smuggling on her last arrest, dated October 29, 2007.

DEFENDANT STATEMENT:

On November 2, 2007, at approximately 10:50 p.m., the defendant was advised of her Miranda rights in the English language and was willing to answer questions without an attorney present. The defendant was previously advised of her Miranda rights by the El Centro agents at approximately 7:36 p.m. The defendant is a United States citizen. During the interview, the defendant admitted to being in the motel room with four individuals whom she knew were illegal aliens. The defendant stated that on today's event, she had agreed to transport two illegal aliens from the Golden Acorn Casino in San Diego, California to El Centro, California for her female associates identified only as "Erica" and "Samantha". The defendant stated that her female associates were to follow her with two other illegal aliens. The defendant admitted that she recognized the four illegal aliens because she had been arrested attempting to smuggle them approximately a month ago. The defendant also admitted to renting a room at a Motel 6 in El Centro for herself and the four illegal aliens.

The defendant admitted to smuggling illegal aliens on numerous occasions and working as a load driver and as a scout vehicle for various amounts of money. On this event, the defendant stated that she was contacted by an alien smuggler known only as "David", who is also an associate of her female friends. The smuggler told her where and when to go to pick up the illegal aliens. The defendant stated that she agreed to smuggle illegal aliens for money. The defendant claimed that she was headed to Fontana, California where she was to deliver the illegal aliens at a Jack in the Box restaurant. At this location, she was to meet the alien smuggler known as David and get paid for her services.


CONTINUATION OF COMPLAINT:

Charmaine ESPARZA,
A.K.A. Charmaine DELGADO-Esparza

MATERIAL WITNESS STATEMENTS:

Material Witnesses Mirella DURAN-Morales, Betsy HERNANDEZ-De Haro, Jiliberto HERNANDEZ-Vera, and L.H.D. (Juvenile) stated that they are citizens and nationals of Mexico illegally present in the United States. They stated that arrangements had been made in Tijuana, Baja California, Mexico to be smuggled into the United States. All the material witnesses stated that they entered the United States illegally by jumping the international border fence with the aid of alien smugglers/foot guides. The material witnesses stated that upon their arrival at a designated location, a female arrived in a vehicle and transported them to a motel. They stated that the female driver was the same person that had transported them on a previous occasion when they had attempted to illegally enter the country, but they were pulled over and arrested. The material witnesses stated that they were to pay \$2,500.00 to \$3,000.00 (US) to be smuggled to various parts of the United States. All the material witnesses were shown a photo line up and were able to identify the defendant as the driver of the vehicle.

Executed on November 4, 2007, at 9:00 a.m.



Raul Castorena
Senior Patrol Agent

On the basis of the facts presented in the probable cause statement consisting of 3 page(s), I find probable cause to believe that the defendant named in this probable cause statement committed the offense on **November 2, 2007**, in violation of Title 8, United States Code, Section 1324.

Peter C. Lewis
United States Magistrate Judge

Date/Time


1. *Chlorophyll a* and *Chlorophyll b* were determined by the method of Lichtenthaler and Whistler (1973). The total chlorophyll content was determined by the method of Arar and Cook (1980).

[illegible]

Table 1. *Continued*

SECRET

On the basis of the foregoing, stated in the probable cause statement consisting of 1 paragraph, I find probable cause to believe that the defendant named in this amended 1 page statement committed the offense on November 17, 1974, in the County of Santa Clara, State of California.


Robert C. Lewis
United States District Judge

11-4-07 @ 9:28 am